§ 159C-8. Approval of bonds.

(a)   No bonds may be issued by an authority unless the issuance of the bonds is first approved by the Local Government Commission.

The authority shall file an application for approval of its proposed bond issue with the Secretary of the Local Government Commission, and shall notify the Secretary of Commerce of the filing if the project is an industrial project or pollution control project.

(b)   In determining whether a proposed bond issue should be approved, the Local Government Commission may consider any of the following:

(1)   Whether the proposed operator and obligor have demonstrated or can demonstrate the financial responsibility and capability to fulfill their obligations with respect to the financing agreement. In making such determination, the Commission may consider the operator's experience and the obligor's ratio of current assets to current liabilities, net worth, earnings trends and coverage of fixed charges, the nature of the industry or business involved and its stability and any additional security such as credit enhancement, insurance, guaranties or property to be pledged to secure such bonds.

(2)   Whether the political subdivisions in or near which the proposed project is to be located have the ability to cope satisfactorily with the impact of the project and to provide, or cause to be provided, the public facilities and services, including utilities, that will be necessary for the project and on account of any increase in population which are expected to result from the project.

(3)   Whether the proposed date and manner of sale will have an adverse effect upon any scheduled or anticipated sale of obligations by the State or any political subdivision or any agency of either of them.

(4)   Any other factors the Commission considers relevant.

(c)   The Local Government Commission shall not approve the issuance of bonds for a special purpose project unless the governing body of the county in which the special purpose project is located has conducted a public hearing and, at or after the public hearing, approved in principle the issuance of bonds under this Chapter for the purposes of paying all or a part of the proposed special purpose project. Notice of the public hearing must be published at least once in at least one newspaper of general circulation in the county not less than 14 days before the public hearing. The notice must describe generally the bonds proposed to be issued and the proposed special purpose project, including its general location, and any other information the governing body considers appropriate.

(d)   If the initial proposed operator of the project is not expected to be the operator for the term of the bonds proposed to be issued, the Local Government Commission may consider the matters required under subdivision (b)(1) of this section only with respect to the initial operator. The obligor shall be obligated to perform all of the duties of the obligor required hereunder during the term the bonds are outstanding. The Local Government Commission shall evaluate the obligor's ability to perform these duties without regard to whether the initial proposed operator of the project is expected to be the operator for the term of the bonds proposed to be issued. To facilitate the review of the proposed bond issue by the Commission, the Secretary may require the authority to obtain and submit any financial data and information about the proposed bond issue and the security for it, including the proposed prospectus or offering circular, the proposed financing agreement and security document and annual and other financial reports and statements of the obligor, as the Secretary may prescribe. The Secretary may also prescribe any forms and rules the Secretary considers reasonably necessary

to implement the provisions of this section. (1975, c. 800, s. 1; 1977, c. 198, s. 23; 1979, c. 109, s. 1; 1989, c. 751, s. 7(49); 1991 (Reg. Sess., 1992), c. 959, s. 80; 1995 (Reg. Sess., 1996), c. 575, s. 7; 2000-179, s. 7.)